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Regis.

Legal DEPARTMENT

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(1)	C.No. 9359 dated 30-10-41	Bom. Parsi Public Trust Registration Act, 1936 - Whether voluntary subscription should be excluded from the gross annual income of the Sholapur Parsi Anjuman trust for the purposes of calculating the amount of contribution payable by the trust to the Administration Fund. Whether it is legally feasible for the Registrar to publish the list of trust etc. in a Gujarati paper of Bombay instead of the local Marathi paper	1 - 4

Office of the R.L.A.

Para.3 of the H.D. office note:- The proposal is that the voluntary subscriptions referred to in paras. 3 and 5 of the Registrar's letter at pages 1-3 ante should be excluded from the gross annual income of the Sholapur Parsi Anjuman trust for the purposes of calculating the amount of contribution Fund. The proposal is not legally feasible. Section 18 of the Parsi Public Registration Act, 1936, provides for the contribution to be made by such trusts to the Parsi Public Trusts Administration Fund. The proviso to the section requires that the contributions prescribed under the section shall be fixed at rates in proportion to the gross income of the trust. The subscriptions in this case are stated to have been paid voluntarily by some members of the Parsi community for the purpose of maintaining an additional priest and some corpse-bearers and for keeping a lamp at the Tower of Silence. The subscriptions, whatever their purpose may be, would appear to form the income of the trust. The expression "income" in the proviso to section 18 of the Act includes all kinds of income and does not mean only the income derived from the properties of the trust. In R.L.A.'s opinion dated 7th December 1938, it was held that if any donation or offerings are made with a specific direction that they should form part of the corpus of the trust, that would not be the annual income within the meaning of the Bombay Public Trusts Registration Act, 1935. In accordance with this opinion, an explanation was added to rule 18 of the Bombay Public Trusts Registration Rules, 1937, making it clear that for the purposes of that rule the term "gross annual income" shall not include donations given or offerings made with a specific direction that they should form part of the corpus of the public trust property In this case, the subscriptions are not paid with any such direction. They do not form part of the corpus of the trust property. The R.L.A.'s opinion referred to above, therefor does not apply and even if rule 18 of the Parsi Public Trusts Registration Rules is amended by adding an explanation to it

as in rule 18 of the Bombay Public Trusts Registration Rules it will not be feasible to exclude the subscription from the gross income for the purposes of calculating the contribution. It will not also be possible to make any rule under the Act in this effect. Such a rule will be inconsistent with the provisions of the Act and therefore ultra vires.

2. Para.4 of the R.D. office note (pages 12-13 ante).- Under section 19 of the Parsi Public Trusts Act, it is compulsary for the Registrar to publish the list of trusts etc. in a newspaper published in the princ pal ~~xxxxx~~ vernacular of the district or area. Marathi being the principal language of the ~~"s~~District in this ~~xxxx~~ case, unless the section is amended it is not legally feasible to make the publication in a Gujarati paper of Bombay instead of in the local marathi paper as proposed by the Registrar. No rule can be made under the Act providing for such change in the paper for the purposes of publication as such a rule will be inconsistent with the provisions of the Act and consequently ultra vires of the Act

Dr. 28/10

Remembrancer of Legal Affairs

U.R. to R.D. No. 9359, dated the 30th October 1941.